



# Town of Fairhaven Massachusetts

40 Center Street  
Fairhaven, MA 02719

Mark D. Sylvia  
TOWN MODERATOR

September 13, 2021

Senator John Cronin, Senate Chair  
Joint Committee on Municipalities and Regional Government  
24 Beacon Street  
Room 504  
Boston, MA 02133

Representative Lori Ehrlich, House Chair  
Joint Committee on Municipalities and Regional Government  
24 Beacon Street  
Room 540  
Boston, MA 02133

**RE: Testimony of Mark D. Sylvia, Fairhaven Town Moderator regarding H 3948 “An Act relative to the Board of Selectmen of the town of Fairhaven” submitted via [municipalitiescommitteema@gmail.com](mailto:municipalitiescommitteema@gmail.com)**

Dear Chair Cronin, Chair Ehrlich and Members of the Joint Committee:

Thank you for the opportunity to provide written testimony in support of H 3948, An Act relative to the Board of Selectmen of the town of Fairhaven.

As the elected Town Moderator for the Town of Fairhaven, I appreciate the opportunity to share with you my testimony in support of H 3948, which was approved as Article 47 by Fairhaven’s representative town meeting at our June 12, 2021 annual meeting. Specifically, I ask that the Joint Committee on Municipalities and Regional Government report out H 3948 favorably and that the Great and General Court enact, and Governor Baker sign this bill based on (1) the affirmative vote of Fairhaven Town Meeting (2) the intent of the article and (3) to enable the Fairhaven Select Board to avoid future conflicts and to expand citizen participation.

### **INITIATED BY CITIZEN PETITION, AFFIRMED BY A VOTE OF TOWN MEETING**

The June 12, 2021 annual town meeting for Fairhaven was perhaps the most significant meeting in my thirteen-year tenure as the Town Moderator as it relates to our governmental structure. Among those articles passed related to our existing form of government were, changing the title of the Board of Selectmen to Select Board, establishing a Charter Committee, mandating remote meeting participation for public meetings, and expanding the Select Board from three to five members (H 3948).

H 3948 via Article 47, was initiated by citizen petition and approved at town meeting by a significant margin. As the most direct form of democracy in America, Massachusetts town meetings enable any citizen of that town the opportunity to collect the requisite number of signatures from their fellow citizens in order to bring matters of importance before the local legislative body. In this case, a citizen of Fairhaven collected signatures to place an article on the warrant that would expand the Fairhaven Select Board from three elected members to five. This petitioned article was subsequently placed on the June 12, 2021 Annual Town Meeting Warrant, appearing as Article 47. It was debated and ultimately approved by Town Meeting by a majority vote of 101 in favor, 56 in opposition. As such Town Meeting took clear and decisive action to expand the Select Board membership.

**THE INTENT OF THE ARTICLE IS FOR THE ELECTION OF AN EXPANDED SELECT BOARD TO HAPPEN AS SOON AS POSSIBLE**

In support of the General Court and Governor acting now, the language of the petitioned article, affirmed by a majority vote of Town Meeting, stated plainly that:

“...at the first Annual Town Election to occur following the passage of this act by the Massachusetts General Court, three (3) Selectmen shall be elected....”

While the petitioned article did not specifically identify the April 4, 2022 annual town election as the intended town election date (recognizing that the Great and General Court’s calendar and formal session would govern legislative action), it was the hope of the petitioners, Town Meeting and local town officials that such action could be taken as soon as possible so as to allow for the election of additional Select Board members. The earliest opportunity for that change to take place is the town’s April 4, 2022 annual town election.

Moreover, local officials have expressed to our legislative delegation the desire to have the expanded Select Board elected at the next town election. We greatly appreciate the swift action taken by our State Representative, William Straus, in filing this special legislation during the current formal session, enabling the possibility of the bill being enacted and signed in time to implement this change at the April 4, 2022 annual town election.

**A FIVE MEMBER SELECT BOARD WOULD ASSIST IN AVOIDING FUTURE CONFLICTS AND ENABLE GREATER PARTICIPATION**

In 2021, Fairhaven’s Town Administrator retired necessitating a process to appoint a replacement. A search committee was appointed by the then three member Select Board to screen and interview candidates and present recommendations to the Select Board. During the finalist interview process, one of the three members of the Select Board announced that he had to recuse himself from the appointment process due to a potential conflict. This left two Select Board members to make the appointment.

When the remaining members of the Select Board deliberated over the candidates, they were deadlocked on how to proceed, not able to reach consensus on a candidate and therefore unable to appoint a new town administrator. As a result, finalist candidates withdrew, and the Select Board could not act on what is arguably that board’s most important responsibility.

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Only after a recall election and the election of a new member of the Select Board, was the town able to proceed with the search for a second time, which is currently ongoing and includes provisions that address a deadlock if one should occur. These provisions include an agreement between the two voting Select Board members that if they each support a different candidate, the search committee will make a recommendation based on one of those two candidates and the two voting Select Board members will accept the recommendation and appoint that candidate. This approach, which is necessary to address a 1-1 deadlock, is not ideal. The town ultimately would be best served by a process whereby a town administrator was appointed by a majority of the elected Select Board members.

Whether it be the appointment of a town administrator, approval of the annual budget, or any other responsibility of the Select Board that requires a majority vote, expanded membership to five, will significantly reduce the possibility of a deadlocked board in the future and avoid the need for provisions like what was implemented for the town administrator search.

It is also the case that expanding the Select Board from three to five will enable more citizens to participate in the executive branch of town government, allowing for more voices that reflect a diversity of people and opinions in our town.

### CONCLUSION

The citizens of Fairhaven and its representative town meeting care deeply about the effectiveness, efficiency, and transparency of our local government. The actions taken at the June 12, 2021 Annual Town Meeting reflect those values through the approval of various articles aimed at modernizing and improving our government. And while a Charter Committee will look at all facets of our local government, Town Meeting felt we could not wait on one very important improvement, the expansion of our Select Board from three to five.

Thank you for your consideration of my testimony. On behalf of Fairhaven Representative Town Meeting (the largest representative town meeting in the Commonwealth) I ask that the Joint Committee on Municipalities and Regional Government vote favorably on H 3948 and that the General Court enacts this bill during the current formal session and transmit it to Governor Baker for his signature.

Sincerely,



Mark D. Sylvia  
TOWN MODERATOR

Cc: Select Board  
Town Meeting  
Town Clerk  
Town Counsel